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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 JUAN DIONICIO CASTRO,

12 Petitioner,

13 v.

14 J. ROBERTSON,

15 Respondent.
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Case No. 8:18-cv-00867-DMG-MAA

**ORDER ACCEPTING REPORT
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of
18 Habeas Corpus by a Person in State Custody (“Petition”), the other records on file
19 herein, and the Report and Recommendation of the United States Magistrate Judge.

20 The Court also has reviewed Petitioner’s objections to the Report and
21 Recommendation, which the Court received and filed on November 12, 2020
22 (“Objections”). (Objs., ECF No. 21.) As required by Federal Rule of Civil
23 Procedure 72(b)(3), the Court has engaged in *de novo* review of the portions of the
24 Report and Recommendation to which Petitioner specifically has objected.

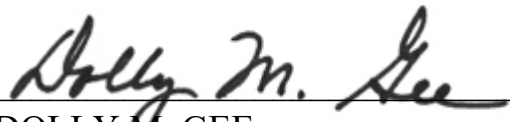
25 Petitioner objects to portions of the factual summary in the Report and
26 Recommendation. (Objs. 2–7; *see* Rep. & Recommendation, ECF No. 19, at 3–10.)
27 However, a factual summary from a state appellate court’s opinion is entitled to a
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1 presumption of correctness under 28 U.S.C. § 2254(e)(1) that may be rebutted only
2 by clear and convincing evidence that the facts were otherwise. *See Moses v.*
3 *Payne*, 555 F.3d 742, 746 n.1 (9th Cir. 2009) (citation omitted). Although
4 Petitioner now challenges aspects of the California Court of Appeal's factual
5 summary, he has not adduced clear and convincing evidence that this summary is
6 incorrect. (*See* Objs. 2–7.)

7 Next, Petitioner reasserts the nine grounds for habeas relief he raised in his
8 Petition without alleging any specific errors in the Report and Recommendation.
9 (Objs. 7–13; *see* Pet., ECF No. 1, at 5–6, 14–41.) The Objections lack merit for the
10 reasons stated in the Report and Recommendation. (Rep. & Recommendation 14–
11 46.) The Court finds no defect of law, fact, or logic in the Report and
12 Recommendation. The Court concurs with and accepts the findings, conclusions,
13 and recommendations of the United States Magistrate Judge, and overrules the
14 Objections.

15 IT THEREFORE IS ORDERED that (1) the Report and Recommendation of
16 the Magistrate Judge is accepted; and (2) Judgment shall be entered denying the
17 Petition and dismissing this action with prejudice.

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19 DATED: March 22, 2021

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21 DOLLY M. GEE
22 UNITED STATES DISTRICT JUDGE
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